



NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

FOR IMMEDIATE RELEASE:
February 23, 2005

NEWS MEDIA CONTACT:
Mark Wigfield, 202-418-0253
Email: mark.wigfield@fcc.gov

FCC Finds That AT&T Unlawfully Avoided Paying Universal Service And Access Fees On Its Prepaid Calling Cards

Order Should Have No Effect on Military Calling Cards

Washington, D.C. – The Federal Communications Commission today found that AT&T Corp. unlawfully avoided paying millions of dollars of universal service contributions and other fees related to a long-distance calling card service marketed by the company.

The Commission rejected an assertion by AT&T that its practice of inserting advertisements in the calling card service transformed it into an unregulated “information service” not subject to universal service assessments. The advertisements are incidental to the underlying telecommunications service offered to the cardholder, the Commission found, and do not change the regulatory status of the service.

“Customers buy the card to make telephone calls; they must hear the recorded message – whether or not they listen to it – because it would be impossible to make calls without doing so,” the Commission said.

The Commission ordered AT&T to file revised universal service contributions forms for the entire period that AT&T has provided its calling card service. In its November 2004 filings with the Securities and Exchange Commission, AT&T reported that it had avoided \$160 million in universal service contributions on the card since 1999.

The universal service fund provides affordable telephone service in remote rural areas, brings Internet service to the nation’s schools and libraries, helps low-income families pay their phone bills, and improves health care in rural areas by supporting rural telemedicine services. Universal service contributions are assessed on carriers that provide interstate and international telecommunications services

The Commission also rejected AT&T’s assertion that calls made within a state shouldn’t be subject to intrastate access charges. AT&T said the calls are exempt because they are routed through AT&T’s out-of-state switching platform. The Commission generally determines the jurisdiction of a call by its endpoints; calls that originate and terminate in the same state are considered jurisdictionally intrastate.

Sending a call out of state to a switch that embeds incidental advertising message “is no more relevant to the jurisdictional question than the typical phrase, ‘Thank you for using AT&T,’ ” the

Commission said. AT&T reported avoiding \$340 million in intrastate access charges since November of 2002 in its recent SEC filing. Long-distance providers are required to pay intrastate access fees to the originating and terminating local telephone companies on intrastate toll calls.

The Commission noted that prepaid callings cards can provide a low-cost calling option for consumers, including members of the military and their families. Prepaid callings cards “are a lifeline for troops serving overseas,” the Commission said, and nothing in the order requires increases in the prices paid by consumers for prepaid calling cards. Calling card calls made to or from members of the armed services serving overseas are not subject to intrastate access fees. And the Commission noted that several carriers comply with requirements to contribute to universal service and pay intrastate access on calling card rates that are competitive with the rates offered by AT&T.

The Commission also initiated a rulemaking to address comprehensively the appropriate regulatory regime for all calling cards. AT&T in November asked the Commission to rule that two new variants of its calling card are information services and jurisdictionally interstate. The Commission concluded that the public interest would be best served by considering the issue comprehensively rather than in a piecemeal manner.

Action by the Commission, February 16, 2005, by Order and Notice of Proposed Rulemaking (FCC 05-41). Chairman Powell, Commissioners Abernathy, Martin and Adelstein, with Commissioner Copps concurring. Separate statements issued by Chairman Powell, Commissioners Copps and Adelstein.

Docket Number 03-133.

Bureau point of contact: Fred Campbell, fred.campbell@fcc.gov, 202-418-1553.

-FCC-

News about the Federal Communications Commission can also be found
on the Commission’s web site www.fcc.gov.